

1 BILL NO. S-82-09-06

2 SPECIAL ORDINANCE NO. S-165-82

3 AN ORDINANCE approving certain
4 contracts for the purchase of land,
5 in connection with the Board of
6 Aviation Commissioners.

7 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
8 FORT WAYNE, INDIANA:

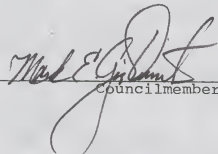
9 SECTION 1. That the following Contracts entered into
10 between the Board of Aviation Commissioners and the undersigned
11 parties for the purchase of land for the expansion of the airport
12 runway approved by the Federal Aviation Administration, ADAP
13 Project #6-18-0022-07:

14 A. Contract dated October 25, 1981, with
15 Ruth M. Fogwell (now Estate of Ruth
16 M. Fogwell), involving a total cost of \$ 65,000.00

17 B. Contract dated July 16, 1982, with
18 Lerland W. Fogwell and Mary Louise
19 Fogwell, involving a total cost of 689,388.00,

20 all of which are on file in the Office of the Board of Aviation
21 Commissioners and are by reference incorporated herein, made a
22 part hereof and are hereby in all things ratified, confirmed
23 and approved. Two copies of said Contracts are on file in the
24 Office of the City Clerk and made available for public inspection,
25 according to law.

26 SECTION 2. That this Ordinance shall be in full force
27 and effect from and after its passage and any and all necessary
28 approval by the Mayor.

29 
30 Councilmember

31 APPROVED AS TO FORM
32 AND LEGALITY

33 
34 Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by GiaQuinta, seconded by Bradbury, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: 9-14-82

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by GiaQuinta, seconded by Bradbury, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCRUGGS</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 9-28-82

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) NO. S-165-82 on the 28th day of September, 1982.

ATTEST:

(SEAL)

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 29th day of September, 1982, at the hour of 11:30 o'clock A. M., E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 4th day of October 1982, at the hour of 10 o'clock A. M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR. - MAYOR

BILL NO. S-82-09-06

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON Finance TO WHOM WAS REFERRED AN
ORDINANCE approving certain contracts for the purchase of land,
in connection with the ~~Board~~ of Aviation Commissioners

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

MARK E. GIAQUINTA, CHAIRMAN

PAUL M. BURNS, VICE CHAIRMAN

JAMES S. STIER

VICTURE L. SCRUGGS

DONALD J. SCHMIDT

Mark E. Giaquinta
Paul M. Burns
James S. Stier
Victure L. Scruggs
D Schmidt

9-28-82
DATE 9-28-82 CONCURRED IN
CHARLES W. WESTERMAN, CITY CLERK

UNIFORM LAND ACQUISITION OFFER

MRS. RUTH M. FOGWELL
10025 Smith Road
Fort Wayne, Indiana 46809

The Board of Aviation Commissioners of the City of Fort Wayne, Indiana (hereinafter "the Board") is authorized by law to obtain your land for certain public purposes.

The Board needs your land, which is located at the Northwest corner of Baer Field, the Fort Wayne Municipal Airport, in order to extend Northwest Runway No. 31 and Taxiway, and needs to take the following described property:

One Acre located in the Northwest corner of the Southwest Quarter of the Southwest Quarter of Section 5, Township 29 North, Range 12 East, in Allen County, Indiana, and the house located thereon known as: 10025 Smith Road, and legally described on attached Exhibit "A".

It is our opinion that the fair market value of said property we want to acquire from you is Sixty-Five Thousand (\$65,000.00) Dollars.

The Board offers you Sixty-Five Thousand (\$65,000.00) Dollars for the above described property.

You have twenty-five (25) days from this date to accept or reject this offer. If you accept this offer, you may expect payment in full within ninety (90) days after signing the documents accepting this offer and executing the deed, and provided there are no difficulties in clearing liens or other problems with title to the land. Possession will be required thirty (30) days after you have received your payment in full.

HERE IS A BRIEF SUMMARY OF YOUR OPTIONS AND LEGALLY PROTECTED RIGHTS:

1. By law, the Board of Aviation Commissioners of the City of Fort Wayne, Indiana, is required to make a good faith effort to purchase your property.
2. You do not have to accept this offer.
3. However, if you do not accept this offer, and we cannot come to an agreement on the acquisition of your land, the Board has the right

to file suit to condemn and appropriate the land in the county in which the real estate is located.

4. You have the right to seek advice of an attorney, real estate appraiser or any other person of your choice on this matter.

5. You may object to the public purpose and necessity of this project.

6. If this Board files a suit to condemn and appropriate your land and the court grants its request to condemn, the court will then appoint three (3) appraisers who will make an independent appraisal of the land to be appropriated.

7. If we both agree with the court appraisers' report, then the matter is settled. However, if either of us disagrees with the appraisers' report to the court, either of us has the right to ask for a trial to decide what should be paid to you for the land condemned.

8. If the court appraisers' report is not accepted by either of us, then this Board has the legal option of depositing the amount of the court appraisers' evaluation with the court. And if such a deposit is made with the court, this Board is legally entitled to immediate possession of the land. You may, subject to the approval of the court, make withdrawals from the amount deposited with the court. Your withdrawal will in no way affect the proceedings of your case in court, except that, if the final judgment awarded you is less than the withdrawal you have made from the amount deposited, you will be required to pay back to the court the amount of the withdrawal in excess of the amount of the final judgment.

9. The trial will decide the full amount of damages you are to receive. Both of us will be entitled to present legal evidence supporting our opinions of the fair market value of the land. The Court's decision may be more or less than this offer. You may employ, at your expense, appraisers and attorneys to represent you at this time or at any time during the course of the proceeding described in this offer.

10. If you have any questions concerning this matter, you may contact us at: Board of Aviation Commissioners, Terminal Building, Baer Field, Fort Wayne, Indiana 46809.

This offer was made to the owner:

Ruth M. Fogwell
10025 Smith Road
Fort Wayne, Indiana 46809,

and to her legal counsel: Dwight Gallivan, on the 21st day of October, 1981.

FORT WAYNE BOARD OF AVIATION COMMISSIONERS

BY

Ray Hoverman
(Ray Hoverman) Manager

Agent of: Board of Aviation Commissioners of the
City of Fort Wayne, Indiana.

If you decide to accept the offer of Sixty-Five Thousand (\$65,000.00) Dollars made by the Fort Wayne Board of Aviation Commissioners, sign your name below and mail this form to the address indicated above. An additional copy of this offer has been provided for your file.

ACCEPTANCE OF OFFER

I, Ruth M. Fogwell, owner of the above described property or interest in said property, hereby accept the offer of Sixty Five Thousand (\$65,000.00) Dollars made by the Fort Wayne Board of Aviation Commissioners on this 28th day of Oct., 1981.

Ruth M. Fogwell
(Ruth M. Fogwell)
John W. Fogwell P.O.A.
Leland W. Fogwell P.O.A.

Part of the Southwest 1/4 of the Southwest 1/4 of Section 5, Township 29 North, Range 12 East, in Allen County, Indiana, more particularly described as follows: Beginning at the Northwest Corner of the Southwest 1/4 of the Southwest 1/4 of Section 5, Township 29 North, Range 12 East, Allen County, Indiana; thence South 89 degrees 12 minutes East along the North Line of the Southwest 1/4 of the Southwest 1/4 of Said Section, a distance of 285.6', to a point; thence South 0 degrees 40 minutes East, a distance of 152.5', to a point; thence North 89 degrees 12 minutes West, a distance of 285.6', to a point on the West Line of Said Section; thence North 0 degrees 40 minutes West along the West Line of Said Section which is also the centerline of Smith Road, a distance of 152.5', to the point of beginning; containing 1.0 acres more or less; and subject to the right-of-way along Smith Road.

EXHIBIT "A"

CERTIFICATE OF SURVEY

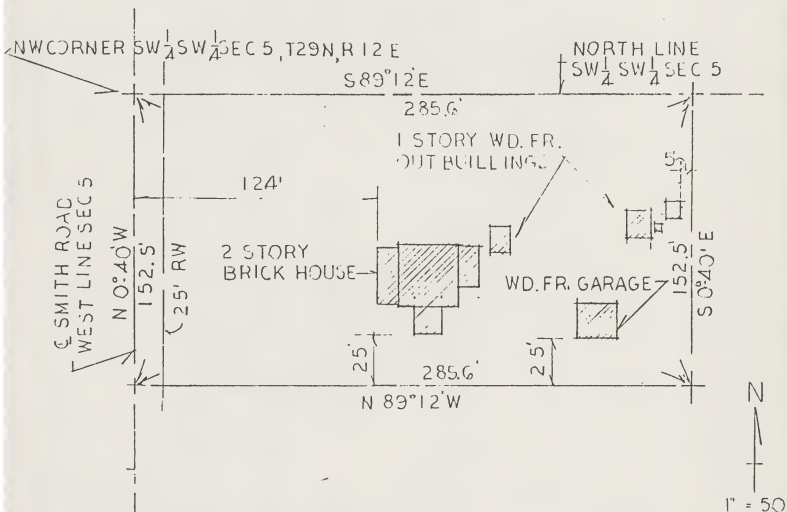
No. BAC02579

OFFICE OF WILLIAM A. DARLING
Fort Wayne, Indiana

Registered Land Surveyor No. 9905

This document is a record of a survey of real estate made in accordance with the deed records and recorded plats thereof on file in the Office of the County Recorder. The real estate described below exists in full dimension as hereon noted in feet, and is free from encroachments by adjoining land owners, and furthermore, contains entirely within its boundaries the buildings and structures situated thereon; all as indicated below. Any exceptions or discrepancies found to exist are noted in detail hereon.

DESCRIPTION OF PROPERTY:- Part of the Southwest 1/4 of the Southwest 1/4 of Section 5, Township 29 North, Range 12 East, in Allen County, Indiana, more particularly described as follows: Beginning at the Northwest Corner of the Southwest 1/4 of the Southwest 1/4 of Section 5, Township 29 North, Range 12 East, Allen County, Indiana; thence South 89 degrees 12 minutes East along the North Line of the Southwest 1/4 of the Southwest 1/4 of Said Section, a distance of 285.6 feet, to a point; thence South 0 degrees 40 minutes East, a distance of 152.5 feet, to a point; thence North 89 degrees 12 minutes West, a distance of 285.6 feet, to a point on the West Line of Said Section; thence North 0 degrees 40 minutes West along the West Line of Said Section which is also the centerline of Smith Road, a distance of 152.5 feet, to the point of beginning; containing 1.0 acres more or less; and subject to the right-of-way along Smith Road.



IN WITNESS WHEREOF, I have placed my hand and
seal this 1 day of February 1980

William A. Darling



SETTLEMENT PURCHASE AGREEMENT

WHEREAS, the Board of Aviation Commissioners of the City of Fort Wayne has filed suit in the Allen Circuit Court against Lerland W. Fogwell and Mary Louise Fogwell for the condemnation and acquisition of 175.5 acres of land owned by said parties in Section 5 of Township 29 North in Allen County, Indiana, which is legally described on the attached Exhibit "A", in order to extend Northwest Runway No. 31 at the Fort Wayne Municipal Airport, known as Baer Field, and said cause is now pending as #S-81-3591 in said Court;

WHEREAS, said Board and said Fogwells have now agreed on a compromise purchase price for the condemnation of said property in the sum of \$689,388.00 in settlement of said cause of action.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. That the City of Fort Wayne shall purchase and said Fogwells shall sell said described property for the sum of \$689,388.00, free and clear of all liens, subject only to the easements set forth in the attached legal description, and subject only to taxes assessed after the filing of said condemnation suit, namely, 1982 taxes payable in 1983, which shall be assumed by the City.

2. That the City shall proceed forthwith to acquire the necessary funds to complete said purchase, and the Fogwells shall have the right to retain possession of the farmlands and farm buildings located thereon in order to harvest the growing crops now located thereon.

3. Possession of the dwelling house and appurtenant garage on said real estate shall be delivered to the City within thirty (30) days after closing, except that Fogwells shall have until September 20, 1982, to remove the tools from the garage at a sale to be held on the premises and with that exception, said dwelling house and the garage shall be surrendered as herein provided.

Said premises shall be delivered to City in reasonable habitable condition and all mechanical equipment (plumbing, electrical, heating, well, etc.) shall be functional and in operating condition.

3(a). Fogwells shall have permission and the right to use electricity at both houses for the purpose of removing grain from storage on the premises

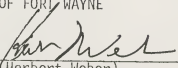
and for light at the buildings where Fogwells have equipment stored up until the time that said equipment shall be removed therefrom for the sale and/or harvest of the crops, whichever is later, but in no event shall said electricity be used by Fogwell after the crops are harvested and removed from the premises.

4. At closing, the above described suit shall be dismissed by the City costs paid.

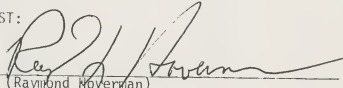
Dated this 16 day of July, 1982.

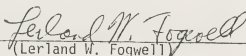
CITY OF FORT WAYNE

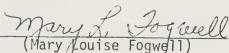
By


(Herbert Weber)
Chairman of its Board of Aviation
Commissioners

ATTEST:


(Raymond Koverman)
its Airport Manager


(Lerland W. Fogwell)


(Mary Louise Fogwell)

"Part of the South 1/2 of Section 5, Township 29 North, Range 12 East, in Allen County, Indiana, including the Southwest 1/4 of the Southwest 1/4 of Said Section, the East 1/2 of the Southwest 1/4 of Said Section, and a part of the West 1/2 of the Southeast 1/4 of Said Section; more particularly described as follows:

Beginning at the Southwest Corner of Section 5, Township 29 North, Range 12 East, Allen County, Indiana; thence North 0 degrees 40 minutes West along the West Line of Said Section which is the centerline of Smith Road, a distance of 1324 feet to the Northwest Corner of the Southwest 1/4 of the Southwest 1/4 of Said Section; thence South 89 degrees 12 minutes East along the North line of Said Southwest 1/4 of the Southwest 1/4, a distance of 1321 feet to the Northeast Corner of Said Southwest 1/4 of the Southwest 1/4; thence North 0 degrees 40 minutes West, along the West Line of the Northeast 1/4 of the Southwest 1/4 of Said Section, a distance of 1324 feet to the Northwest Corner of the Northeast 1/4 of the Southwest 1/4 of Said Section; thence South 89 degrees 12 minutes East along the North line of the South 1/2 of Said Section, a distance of 2642 feet to the Northeast Corner of the Northwest 1/4 of the Southeast 1/4 of Said Section; thence South 1 degree 3 minutes East along the East Line of Said Northwest 1/4 of the Southeast 1/4, a distance of 736.3 feet; thence South 88 degrees 57 minutes West, a distance of 101.1 feet; thence South 1 degree 3 minutes East, a distance of 173.5 feet; thence South 32 degrees 6 minutes West, a distance of 88.3 feet; thence South 58 degrees 12 minutes East, a distance of 125.0 feet to a point on the centerline of Indiana State Road No. 3; thence South 32 degrees 24 minutes West along the centerline of Said Road a distance of 380 feet to the beginning of a curve to the right having a degree of curvature of 0 degrees 48 minutes; thence along Said curve a distance of 1630 feet to a point on the South Line of Said Section; thence North 89 degrees 12 minutes West along Said South line which is the centerline of Ferguson Road, a distance of 2687 feet to the point of beginning; containing 176.5 acres more or less; and subject to rights-of-way along the Smith Road, Indiana State Road No. 3, and the Ferguson Road and subject to an aviation easement to the City of Fort Wayne, Indiana over 52.86 acres set forth in the easement grant dated May 29, 1967 recorded in Deed Record 694, Pages 94-97, in the Office of the Allen County Recorder and subject to the rights of the Lessee, United States of America, dated January 3, 1974 and recorded as Instrument #74-01374 in the office of the Allen County Recorder;

Except one (1) acre in the Northwest corner thereof described as follows:

Part of the Southwest 1/4 of the Southwest 1/4 of Section 5, Township 29 North, Range 12 East, in Allen County, Indiana, more particularly described as follows: Beginning at the Northwest Corner of the Southwest 1/4 of the Southwest 1/4 of Section 5, Township 29 North, Range 12 East, Allen County, Indiana; thence South 89 degrees 12 minutes East along the North Line of the Southwest 1/4 of the Southwest 1/4 of Said Section, a distance of 285.6', to a point; thence South 0 degrees 40 minutes East, a distance of 152.5', to a point; thence North 89 degrees 12 minutes West, a distance of 285.6', to a point on the West Line of Said Section; thence North 0 degrees 40 minutes West along the West Line of Said Section which is also the centerline of Smith Road, a distance of 152.5', to the point of beginning; containing 1.0 acres more or less; and subject to the right-of-way along Smith Road.

CERTIFICATE OF SURVEY

No. 225 22724B.....

OFFICE OF WILLIAM A. DARLING
Fort Wayne, Indiana

Registered Land Surveyor No. 9905

This document is a record of a survey of real estate made in accordance with the deed records and recorded plats thereof on file in the Office of the County Recorder. The real estate described below exists in full dimension as hereon noted in feet, and is free from encroachments by adjoining land owners, and furthermore, contains entirely within its boundaries the buildings and structures situated thereon; all as indicated below. Any exceptions or discrepancies found to exist are noted in detail hereon.

DESCRIPTION OF PROPERTY:-

Tract A:

Part of the South 1/2 of Section 5, Township 29 North, Range 12 East, in Allen County, Indiana, including the Southwest 1/4 of the Southwest 1/4 of Said Section, the East 1/2 of the Southwest 1/4 of Said Section, and a part of the West 1/2 of the Southeast 1/4 of Said Section; more particularly described as follows:
Beginning at the Southwest Corner of Section 5, Township 29 North, Range 12 East, Allen County, Indiana; thence North 0 degrees 40 minutes West along the West line of Said Section which is the centerline of Smith Road, a distance of 1324 feet to the Northwest Corner of the Southwest 1/4 of the Southwest 1/4 of Said Section; thence South 89 degrees 12 minutes East along the North Line of Said Southwest 1/4 of the Southwest 1/4, a distance of 1321 feet to the Northeast Corner of Said Southwest 1/4 of the Southwest 1/4; thence North 0 degrees 40 minutes West, along the West Line of the Northeast 1/4 of the Southwest 1/4 of Said Section, a distance of 1324 feet to the Northwest Corner of the Northeast 1/4 of the Southwest 1/4 of Said Section; thence South 89 degrees 12 minutes East along the North Line of the South 1/2 of Said Section, a distance of 2642 feet to the Northeast Corner of the Northwest 1/4 of the Southeast 1/4 of Said Section; thence South 1 degree 3 minutes East along the East Line of Said Northwest 1/4 of the Southeast 1/4, a distance of 736.3 feet; thence South 88 degrees 57 minutes West, a distance of 101.1 feet; thence South 1 degree 3 minutes East, a distance of 173.5 feet; thence South 32 degrees 6 minutes West, a distance of 88.3 feet; thence South 58 degrees 12 East, a distance of 125.0 feet to a point on the centerline of Indiana State Road No. 3; thence South 32 degrees 24 minutes West along the centerline of Said Road a distance of 380 feet to the beginning of a curve to the right having a degree of curvature of 0 degrees 48 minutes; thence along Said curve a distance of 1630 feet to a point on the South Line of Said Section; thence North 89 degrees 12 minutes West along Said South Line which is the centerline of Ferguson Road, a distance of 2687 feet to the point of beginning; containing 176.5 acres more or less; and subject to rights-of-way along the Smith Road, Indiana State Road No. 3, and the Ferguson Road.

Less Tract B:

Part of the Southwest 1/4 of the Southwest 1/4 of Section 5, Township 29 North, Range 12 East, in Allen County, Indiana, more particularly described as follows:
Beginning at the Northwest Corner of the Southwest 1/4 of the Southwest 1/4 of Section 5, Township 29 North, Range 12 East, Allen County, Indiana; thence South 89 degrees 12 minutes East along the North Line of the Southwest 1/4 of the Southwest 1/4 of Said Section, a distance of 285.6 feet to a point; thence South 0 degrees 40 minutes East, a distance of 152.5 feet to a point; thence North 89 degrees 12 minutes West, a distance of 285.6 feet, to a point on the West Line of Said Section; thence North 0 degrees 40 minutes West along the West Line of Said Section which is also the centerline of Smith Road, a distance of 152.5 feet, to the point of beginning; containing 1.0 acres more or less; and subject to the right-of-way along Smith Road.

Page 1 of 2

IN WITNESS WHEREOF, I have placed my hand and

seal this...22...day of June...1982...

William A. Darling

CERTIFICATE OF SURVEY

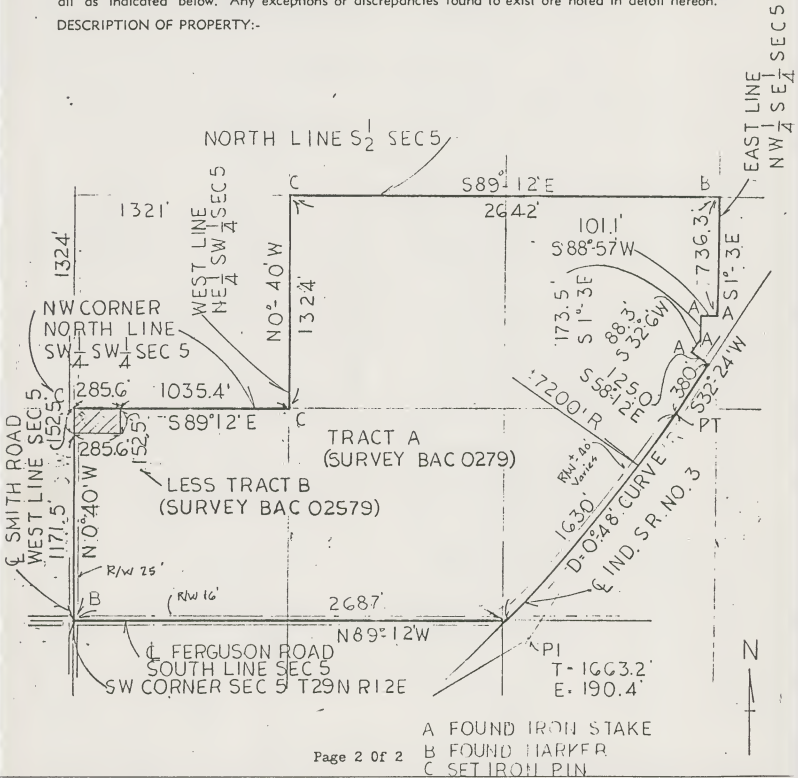
No. BAC 0279 :B

OFFICE OF WILLIAM A. DARLING
Fort Wayne, Indiana

Registered Land Surveyor No. 9905

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DESCRIPTION OF PROPERTY:-



IN WITNESS WHEREOF, I have placed my hand and
seal this...22...day of ...June.....19.82...





The City of Fort Wayne

Mr. Charles Westerman
Clerk of the City of Fort Wayne
City-County Building
Fort Wayne, Indiana 46802

October 22, 1982

Lincoln National Bank and Trust
Company of Fort Wayne
116 East Berry Street
Fort Wayne, Indiana 46802

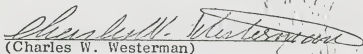
RE: Escrow Agreement dated September 23, 1982, between Lincoln National Bank, as Escrow Agent, Board of Aviation Commissioners of the City of Fort Wayne, Buyer, and Estate of Ruth M. Fogwell and Lerland W. and Mary Louise Fogwell, Sellers.

Gentlemen:

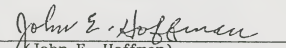
This is to certify that Bill No. A-82-09-01 for the appropriation of \$755,000.00 to the land account of the Board of Aviation Commissioners and Bill No. S-82-09-06 approving a land purchase contract with Ruth M. Fogwell dated October 25, 1981, and a land purchase contract with Lerland W. and Mary Louise Fogwell dated July 16, 1982, were duly approved as Ordinances by the City Council of Fort Wayne on September 28, 1982, and that said Ordinances were thereafter approved by the Mayor of the City of Fort Wayne and duly published.

This is to further certify that the City Controller of Fort Wayne has advised the undersigned that said appropriation Ordinance was duly approved by the Indiana State Tax Board on October 20, 1982.

Yours very truly,


(Charles W. Westerman)
Clerk of the City of Fort Wayne

Examined and approved:


(John E. Hoffman)
Associate City Attorney

DIGEST SHEET

182-09-06

TITLE OF ORDINANCE: An ordinance approving contracts for airport land.

DEPARTMENT REQUESTING ORDINANCE: Board of Aviation Commissioners.

SYNOPSIS OF ORDINANCE: Approval of contracts by Board of Aviation for
purchase of land for extension of Northwest airport runway, approved and
financed 80% by Federal Aviation Administration under 1979 ADAP PROJECT
#6-18-0022-07. Purchase prices determined by appraisals and in settlement of
condemnation action and approved by F.A.A.

EFFECT OF PASSAGE: Purchase of major part of land needed for extension of
Northwest runway at Baer Field.

EFFECT OF NON-PASSAGE: None of the above.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): _____

Total contracts \$754,388.00; 80% federally funded and approximately 5% state
funded.

ASSIGNED TO COMMITTEE: Committee on Finance.